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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/228,103 01/11/99 GOPAL

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EXAMINER

IM62/0621

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FIGUEROA, J

ART UNIT

PAPER NUMBER

1772

DATE MAILED:

06/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/228,103

Applicant(s)
Harsh Gopal

Examiner
John J. Figueroa

Group Art Unit
1772



- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- ☒ Claim(s) 1-15 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements filed on 2/22/99 and on 5/3/00 are acknowledged. The Examiner has reviewed and taken into consideration the U.S. prior art references cited by Applicant. However, at this time the cited continuation application file (09/514,356) is unavailable. Therefore, this application cited by Applicant in the second Information Disclosure Statement will be considered in the future when the file is retrieved as the prosecution of this current application moves further along.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by **either** Bridgeford (US 3,451,827), Rose (US 3,834,920) **or** Chiu (US 3,898,348) .

Applicant's claimed invention is drawn to a food casing internally coated with a dried aqueous emulsion comprising a polyglycerol ester.

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Bridgeford discloses sausage casings internally coated with a coating composition emulsion comprising, *inter alia*, lactic acid, carboxymethylcellulose, silicone or mineral oil, glycerol phosphoric acid, fatty ketene dimers, acetylated monoglycerides of animal and vegetable fats, methyl cellulose and lauryl sodium sulfate. (See Examples 1-2 on col. 6-7; col. 8, lines 30-54)

Rose discloses internally coating frankfurters, bolognas and sausage casings with a lubricating coating composition emulsion; said emulsion comprising, *inter alia*, 5-30% by wt. of an alkoxylated type surfactant or emulsifier, mineral oil and acetylated fatty monoglycerides such as e.g. glycerol polyethoxy monostearate, ethoxylated vegetable oil, glycol polyethoxy monostearate, polyglycol monooleate, polyglycerol monooleate, polyethylene glycol monolaurate, propylene glycol monooleate, polyethylene/polypropylene glycol monolaurate, polyglycerol monostearate, and sorbitan polyethoxy- monooleate, trioleate or monolaurate. (col. 1, lines 10-20; col. 3, lines 10-26; col. 3, line 55 to col. 4, line 31; col. 6, lines 12-38; Examples 1-18 on col. 4-5)

Chiu discloses easily-peelable tubular food casings internally coated with a coating composition emulsion comprising, *inter alia*, a cellulose ether such as methyl- or hydroxypropyl-cellulose; vegetable oils; mineral oils; and alkylene oxide adducts of fatty acid esters such as ethoxylated fatty acid partial esters of polyols (as e.g. propylene glycol, triethylene glycol and sorbitol), glycerol, anhydrosorbitols, polyglycerols and other polyols. (col. 1, lines 6-10; col. 2,

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line 31 to col. 3, line 36; col. 3, line 51 to col. 4, line 43; col. 6, lines 13-39; Examples I-III on col. 7-11)

Particularly in Examples VI-IX on col. 13-16, Chiu discloses an emulsion comprising, *inter alia*, propylene glycol, glyceryl monooleate, mineral oil and carboxymethyl- or methyl-cellulose. (See *particularly* Tables 6-12)

The references read on the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 9, 11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose.

Dependent claims 2-4, 9, 11, 13 and 15 recite, *inter alia*, the polyglyceryl ester to be e.g. glyceryl monooleate; the emulsion to further comprise a polyhydric alcohol, such as propylene glycol and an emulsifier; specified emulsion amounts/percentages for the polyglyceryl ester and for the emulsifier.

Rose was discussed above in Paragraph #3.

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Rose discloses the claimed invention except for the recited variation in amount of polyglyceryl ester in the coating. However, it would have been an obvious matter of design choice to alter the amount of any of the emulsion components, since such a modification would have involved a mere change in the amount/size of the coating on the casing. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Therefore, it would have been obvious to one skilled in the art to vary the amount of Rose's emulsion coated on to the sausage casings in order to attain an optimum balance between production costs and the desired degree of the resultant coated casing's physical properties such as lubricity and easy-peelability.

6. Claims 2-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **either** Bridgeford **or** Chiu.

Applicant further recites the emulsion comprising a water-soluble cellulose, such as methyl cellulose or hydroxypropyl cellulose, and a low viscosity oil such as a mineral oil.

Bridgeford and Chiu were discussed above in paragraph #3.

Both Bridgeford and Chiu disclose the claimed invention except for the recited variation in amounts/percentages for the polyglyceryl ester and emulsifier. However, it would have been an obvious matter of design choice to alter the amount of any of the emulsion components, since such a modification would have involved a mere change in the amount/size of a component. A

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change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).


Accordingly, it would have been obvious to one skilled in the art to vary the amount of either Bridgeford's or Chiu's emulsion coated on to the sausage casings in order to attain an optimum balance between production costs and the desired degree of the resultant coated casing's physical properties such as lubricity and easy-peelability.


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Figueroa whose telephone number is (703) 305-0582. The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 5:30 p.m. The Examiner can also be reached on alternate Fridays.

If the attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Ellis P. Robinson can be reached by dialing (703) 308-2364. The fax phone number for the organization where this application is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose phone number is (703) 305-0061.

jif 
June 15, 2000


Ellis Robinson
Supervisory Patent Examiner
Technology Center 1700